

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

**ORIGINAL APPLICATION NO. 676 of 2017
(Earlier O.A. No. 37 of 2015)**

IN THE MATTER OF:

S.P. Muthuraman
S/o. Ponnusamy,
No. 204, Railway Feeder Road,
Sankar Nagar Post- 627 357
Triunelveli District.

.....Applicant

Versus

1. Union of India
Rep. by the Secretary to Government,
Ministry of Environment and Forests,
Government of India, Paryavaran Bhavan,
New Delhi- 110003
2. The State of Tamil nadu
Rep. by the Secretary to Government,
Ministry of Environment and Forests,
Government of Tamil Nadu,
Fort St. George,
Chennai- 600 003

.....Respondents

COUNSEL FOR APPLICANT

Mr. Rahul Pratap, Advocate

COUNSEL FOR RESPONDENTS:

Mr. Pinaki Mishra, Sr. Adv. with Mr. R. Chandrachud Adv for SSM Builders.

Ms. Sakshi Popli, Adv. SEIAA, TN

Mr. Sumeet Pushkarna with Mr. Devanshu Lahiry, Adv.

Mr. R. Rakesh Sharma, Advs. for State of Tamil Nadu.

Mr. Balendu Shekhar, Adv with Mr. R.K. Maurya, and Mr. Sviansh, Advs.

Mr. Raj Kumar, Adv for CPCB.

JUDGEMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Dr. Justice Jawad Rahim (Judicial Member)

Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)

Hon'ble Mr. Bikram Singh Sajwan (Expert Member)

Reserved on: 17th October, 2017

Pronounced on: 2nd November, 2017

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

Vide detailed judgment dated 7th July, 2015, the Tribunal had directed SSM Builders and Promoters to pay environmental compensation of Rs. 36 Crores and they were also prohibited from raising further construction creating third party interest and/or giving possession to the prospective purchasers without specific orders of the Tribunal. Further, the Tribunal had directed to constitute a Committee to submit a comprehensive report relating to illegal and unauthorised acts and activities carried out by the project proponent including M/s SSM Builders and Promoters. The report was also to cover various aspects like source of water, use of energy efficient devices, ecologically and environmentally sensitive areas, natural topography, drainage system, rain water harvesting system, parking areas and compliance to other municipal and environmental laws. The Committee was also expected to deal with the compliance of conditions of the Environmental Clearance.

2. M/s SSM Builders and Promoters accepted the judgement of the Tribunal and had not assailed the same by way of Appeal before the Hon'ble Supreme Court of India. Subsequently, it filed M.A. No.

189 of 2016 and O.A. No. 154 of 2016 praying that they may be permitted to start construction and complete their housing project which was subject matter of these applications. It was stated that the Committee has filed its report on 18th December, 2015 and the Committee had not directed demolition of the building either in part or in its entirety. The Committee had recommended certain measures to be taken for the purpose of completion of the project. The SEIAA, Tamil Naidu vide Letters dated 26th February, 2016, 4th April, 2016 and 20th April, 2016 had granted the Environmental Clearance to the project and had imposed comprehensive conditions for compliance in the interest of the environment vide order dated 22nd April, 2016. The Tribunal accepted the report of the Committee and disposed of these two applications with following directions:

Since the Project Proponent has satisfied the basic directions issued by the Tribunal and has also received the order granting Environmental Clearance afore stated, we pass the following directions:-

1. Subject to the Project Proponent strictly adhering and complying with the directions, terms and conditions issued in the order granting Environmental Clearance and the orders granted by all the Authorities in this matter, we permit the Project Proponent to continue activity of its project and complete the same in accordance with law.

2. In addition to the conditions stated in the Environmental Clearance the following three conditions shall be carried out by all the concerned Authorities and particularly the Project Proponent.

(i) SEIAA, Tamil Nadu shall verify the compliance of all pre-construction conditions stipulated in the Environmental Clearance and shall effect a joint inspection before allowing third party interests.

(ii) Project Proponent shall make efforts to use the treated waste water optimally within the premises. For the surplus quantity, Project Proponent shall seek expert opinion in respect of the deep well/ deep bore injection of treated waste water from the Institute of Hydrology/ Anna University, Chennai.

(iii) The natural drainage shall be maintained without any concretization. Wherever natural storm water drains have been obliterated, they shall be rerouted properly so that flooding/ ponding does not occur, even during monsoon.

The Project Proponent would be entitled to complete his project but will not give possession to any third party, till unless the joint inspection team consisting of SEIAA, Tamil Nadu, Tamil Nadu Pollution Control Board and representative of MoEF inspects the project and submit a report of satisfactory compliance of all the conditions stated in this order. Project Proponent shall give at least two weeks' Notice to this Committee, requesting for inspection of the premises. Once the inspection report is submitted to the Tribunal and is found to be satisfactory, the Project Proponent can proceed with its project further in accordance with law. This order would be without prejudice to the orders passed by all the other competent Authorities and also without prejudice to the rights and contentions of the parties.

With the above directions, M.A. No. 189 of 2016 In Original Application No. 37 of 2015 and Original Application No. 154 of 2016 stands disposed of without any order as to costs.

3. In furtherance to the order of the Tribunal dated 22nd April, 2016 and 5th May, 2016, the Committee constituted by the Tribunal filed its final report on 10th October, 2017. This report was based upon the joint inspection conducted by the Committee for the project of M/s SSM builders and promoters. The report dealt with the present status of the project, conditions imposed and compliance thereof in relation to various aspects of construction. The joint inspection team finally recorded its satisfaction with regard to the implementation of the environmental conditions stipulated in the Environmental Clearance as well as in the orders of the Tribunal.

4. To the report of the Joint inspection team dated 10th October, 2017 number of annexures have been annexed dealing with various aspects of the compliance in different fields of construction, under

every head the Committee has made conclusions and suggestions. The report primarily relates to aquifer sustainability in available ground water structure, observations in relation to STPs, recommendations on strategic action plan of the project ensuring segregation, collection, transportation, treatment and scientific disposal of MSW, use of treated waste water optimally and disposal of the treated waste water.

5. After receipt of the report of the Committee by the registry of Tribunal, the same was placed before the Tribunal for consideration. The project proponent or any of the party before the Tribunal did not file any response or objections to the report of the Committee, despite granting opportunity. In fact the learned counsel for the project proponent clearly stated that they will comply with all the suggestions and recommendations made by the Committee and also the directions passed by the Tribunal. However they may be permitted to complete their project and also be allowed to create third party interest by transferring the flats to the respective purchasers.

6. Having heard the Learned Counsel appearing for the respective parties, we are of the considered opinion that the project proponent has complied with the conditions of the environmental clearance, laws in force, recommendations of the Committee and the directions contained in the order of the Tribunal dated 22nd April, 2016. Therefore, the project proponent should be permitted to deal with its property free of restrictions but in accordance with law. Thus we pass the following directions:

1. That the project proponent shall file an undertaking before this Tribunal and before SEIAA, Tamil Naidu that it will comply with the remaining conditions of the Environmental Clearance, suggestions and recommendations made by the Committee in its report dated 10th October, 2017, under different heads as afore-referred and also with the conditions imposed in the orders of the Tribunal including the directions stated herein after.
2. That subject to such compliance the prohibitory orders imposed on the project proponent vide our judgment dated 7th July, 2015 are hereby vacated.
3. That the project proponent shall also comply with the following directions expeditiously and without default.
 - a. Out of 1966503 Sqm of area of the plot, the green belt is proposed to be raised over 52138 Sqm, which is 26.5 % of the total area. This green belt area must remain unchanged and should be brought under tree cover and not merely open parks, gardens and open areas and should not be diverted for any other general utility purposes. Any change in the area under green belt should be done only if fresh EC has been obtained.
 - b. Out of 1675 kld of sewage, 677 kld is proposed to be used in flushing, 183 kld in greenbelt and the excess treated sewage water of 815 kld available after reusing for flushing and greenbelt is proposed to be transported by tankers to

- MWSSB STP Chennai for further treatment. This treated sewage should be sold, after proper treatment, either to the industries located nearby or to farmers to be used for irrigation purposes, rather than being transported over long distance. In view of the fact that such transportation, through tankers, is not a sustainable option in the long run.
- c. The aquifer sustainability and ground water monitoring must be done rigorously and periodically and the water withdrawal from the borewells is to be rationed, regulated and monitored accordingly. In the event of water table depletion beyond the normal rate. Also, Rain Water Harvesting and usage of treated sewage water should be increased.
 - d. Regarding the generation of Biogas through Biomethanation by using wet waste, SEIAA, Tamil Nadu will issue directions, in regard to its process and utilisation.
 - e. Green belt should not be concretised at any cost and all the footpaths, cycle tracks etc., within it, if constructed, should be free from any concretisation to permit infiltration/percolation of water into the ground.
 - f. The drinking water which is proposed to be either drawn from the ground water through borewells or through the water supply from the Chennai Metropolitan Water Supply and Sewage Board should be treated to meet the drinking water standards and for this purpose a treatment plant / RO plant be setup for the complete colony, thereby

dispensing with the requirement of ROs at the individual household level.

- g. Complete segregation of MSW at the household level should be a condition made to the allottees at the time of occupation and appropriate infrastructure for segregation and collection should be provided by the project proponent at the time of giving possession letters.
 - h. The project proponent should also inform either by displaying at a conspicuous place within the colony or by writing to individual allottees, all the conditions of EC and the commitment of the project proponent for fulfilment of the conditions, so that all the residents / allottees are aware of the conditions of EC and commitment to be fulfilled by the project proponent towards environment.
 - i. All the natural storm water drains passing through the area under the project should be maintained and used only for the purpose of carrying storm water. They should be suitably strengthened through soil and water conservation measures, including planting of green belt for slope stabilization.
4. That handing over possession to all the flat owners would be subject to compliance of this order.
 5. That in case there is any default on part of the project proponent, the Environmental Clearance granted shall be liable to be withdrawn/cancelled and the project proponent would be liable to pay environmental compensation, as well

as, face all other proceedings including disobedience of the orders of the Tribunal, in accordance with law.

6. That there shall be an inspection conducted by SEIAA, Tamil Nadu as to whether the project proponent has complied with all the conditions laid down in this order and also previous orders of the Tribunal.

7. That with the above direction the case of SSM builders and promoters is hereby ordered to be closed, with liberty to any of the stakeholder to move the Tribunal in case of non-compliance.

8. No order as to costs.

**SWATANTER KUMAR
CHAIRPERSON**

**JAWAD RAHIM
JUDICIAL MEMBER**

**RAGHUVENDRA S. RATHORE
JUDICIAL MEMBER**

**BIKRAM SINGH SAJWAN
EXPERT MEMBER**

New Delhi
2nd November, 2017